



March 23, 1999

Mr. Jason C. Marshall  
Nichols, Jackson, Dillard,  
Hager & Smith, L.L.P.  
500 North Akard, Suite 1800  
Dallas, Texas 75201

OR99-0801

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 124627.

The City of Coppell (the "city") received a request for information relating to a settlement agreement between the city and a former employee. You seek to withhold a document entitled "Compromise Settlement and Release Agreement" which you say is responsive to parts 1, 3 and 4 of the request. You claim that this information may be withheld under sections 552.101 and 552.103 of the Government Code.

Section 552.103(a) excepts from required public disclosure information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Absent special circumstances, once information has been obtained by all parties to the litigation, either through discovery or

otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). The applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Here, it appears that the litigation to which the information at issue relates is concluded. Also, the parties have presumably all had access to this information. Therefore, the information is not protected by section 552.103.

Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information coming within the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85.

Here, you contend that the "information is protected by common law privacy since it reveals financial information between third party individuals and a former public employee." We disagree. Since the information relates to city operations and personnel and reflects an expenditure by the city, there is a legitimate public interest in it. *Compare* Open Records Decision Nos. 600 (1992), 545 (1990), 373 (1983). *See also* Open Records Decision No. 444 at 6 (1986) (confidentiality agreements ineffective). You must, therefore, release the information at issue.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker  
Assistant Attorney General  
Open Records Division

WMW/eaf

Ref.: ID# 124627

Enclosures: Submitted documents

cc: Mr. Arthur Kwast  
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(w/o enclosures)